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November 12, 2009

BY HAND DELIVERY

Jeff S. Jordan, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Matter Under Review 6215 (Robert Boyle)

Dear Mr. Jordan,

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COMMISSION
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OFFICE OF GENERAL
COUNSEL

On behalf of our client, Robert Boyle, I am writing in response to Randy Spitzmesser's complaint filed with the Commission on September 28, 2009. By the Commission's letter dated October 20, 2009, the time for this response was extended to the close of business on November 19, 2009. As counsel for Mr. Boyle, I respectfully request that the Commission find no reason to believe a violation has occurred with respect to Mr. Boyle, and take no further action against him in this matter. *See* 2 U.S.C. § 437g(a)(1); 11 C.F.R. § 111.6(a).

Factual Background

Mr. Boyle is a Project Architect at Tate Snyder Kimsey Architects, Ltd. ("TSK"), a Las Vegas, Nevada-based architectural design firm. (*See* Declaration of Robert Boyle ("Boyle Decl.") ¶ 1, Nov. 9, 2009.) Mr. Boyle has been employed at TSK since 2007, and is responsible for managing large design projects on behalf the company. (*Id.*)

In December of 2008, Mr. Boyle attended a fundraising event for Senator Reid in Nevada, and was accompanied by his business colleague, TSK Design Principal Windom Kimsey. (*Id.* ¶ 2.) After attending the event, Mr. Kimsey decided to organize a similar fundraising event for Senator Reid in Las Vegas on February 17, 2009. (*Id.* ¶ 3.)

Mr. Kimsey invited Mr. Boyle to contribute to the fundraiser. (*Id.* ¶ 4.) Mr. Boyle decided to participate in the Reid event, and voluntarily contributed \$1,000 to Senator Reid's campaign. (*Id.*) He made the contribution using a personal American Express card, the balance for which he paid using personal earnings. (*Id.*) Mr. Boyle also attended the Reid fundraiser. (*Id.*)

Mr. Boyle did not feel pressured to contribute to the Reid event, and was not advised that his position at TSK could be affected or his work would suffer if he did not contribute to the fundraiser. (*Id.* ¶ 5.) Mr. Boyle was not reimbursed for his contribution to the Reid event, and did not discuss the possibility of obtaining a reimbursement with any TSK personnel. (*Id.* ¶ 6.)

Analysis

Mr. Spitzmesser did not name Mr. Boyle as a Respondent in this matter, likely because Mr. Boyle did not violate any campaign finance laws identified in Mr. Spitzmesser's complaint.

First, Mr. Boyle was not reimbursed for his contribution to the Reid campaign. (*Id.* ¶ 6.) With no support for his claim, Mr. Spitzmesser blithely alleges that Mr. Boyle "possibly arranged with Windom Kimsey and Bill Snyder to receive reimbursement money" for his contribution. (Compl. ¶ 2, Sept. 28, 2009 (emphasis added)). Nevertheless, Mr. Boyle is clear that he used personal funds for his contribution to the Reid campaign, and did not ask for or discuss the possibility of reimbursement for the contribution with anyone. (Boyle Decl. ¶¶ 4, 6.)

Second, Mr. Boyle's contribution to the Reid campaign was voluntary. Although Mr. Spitzmesser states that a TSK partner may have made a "threatening statement" to TSK employees to coerce them to contribute to the Reid Event, Mr. Boyle received no such threat. (Compl. ¶ 3, Boyle Decl. ¶ 5.) Mr. Boyle contributed to the campaign in order to show support for the Senator's re-election. (Boyle Decl. ¶ 4.) He was not advised that he may not "have any work for the upcoming year" if failed to contribute to the Reid event, nor was he otherwise pressured or coerced to make a contribution to the Reid Event by any TSK partner or employee. (See Compl. ¶ 2, Boyle Decl. ¶ 5.)

Third, TSK did not facilitate the making of a contribution by Mr. Boyle to the Reid campaign. Mr. Boyle is a member of TSK's restricted class, and may be solicited for contributions to be sent directly to federal candidates. See 11 C.F.R. § 114.2(f)(4)(ii). A corporation's restricted class includes individuals serving as executive or administrative personnel, who are paid by salary, and who have managerial or supervisory responsibilities. See *id.* § 114.1(c), (j). Since 2007, Mr. Boyle has earned a salary working at TSK, and has served as a Project Architect responsible for supervising some of TSK's largest design projects. (Boyle Decl. ¶ 1.) Based upon his position and responsibilities for the company, Mr. Boyle qualifies as a member of TSK's restricted class. Accordingly, Mr. Kimsey, a TSK principal, was permitted to solicit Mr. Boyle for a contribution to be sent directly to the Reid campaign, which Mr. Boyle did by charging his contribution to his personal American Express card in advance of the event.

Mr. Spitzmesser's allegations against Mr. Boyle are not based in law or fact. Therefore, we respectfully request that the Commission find no reason to believe a violation has been committed by Mr. Boyle, and close the matter with no further action against him.

Jeff S. Jordan, Esq.
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If you have questions or require additional information, please do not hesitate to contact me at (202) 756-8333.

Respectfully submitted,


Stephen M. Ryan

(1) Enclosure

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